

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

In the Matter of)	
)	
Federal-State Joint Board on Universal Service)	CC Docket No. 96-45
)	
South Bend Metronet, Inc., Centennial Randolph Cellular, LLC,)	DA 05-470
Mega Comm, LLC and Centennial Cellular Tri-State Operating)	
Partnership)	
)	
Petition for FCC Agreement in Redefining the Service Areas of)	
Tri-County Telephone Company, Inc. Hancock Rural)	
Telephone Corp., CenturyTel of Central Indiana, Inc.,)	
Smithville Telephone Company, Inc., and Northwestern Indiana)	
Telephone Company, Inc.)	

OPPOSITION OF CENTURYTEL OF CENTRAL INDIANA, INC.

CenturyTel of Central Indiana, Inc. (“CenturyTel”), through its attorneys, hereby
opposes the above-referenced petition (“Petition”).¹

I. INTRODUCTION

On December 15, 2004, the Indiana Utility Regulatory Commission (“Indiana Commission”) designated South Bend Metronet, Inc., Centennial Randolph Cellular, LLC, Mega Comm, LLC and Centennial Cellular Tri-State Operating Partnership (collectively “Centennial”) as competitive eligible telecommunications carriers (“CETCs”) in certain rural incumbent local exchange carrier (“ILEC”) study areas of Indiana for the purpose of receiving high-cost support from the federal universal service program.² On February 8, 2005, Centennial filed a Petition at

¹ *The Wireline Competition Bureau Seeks Comment on Petition to Redefine the Service Areas of Certain Rural Telephone Company Service Areas in the State of Indiana*, Public Notice in CC Docket 96-45, DA 05-470 (rel. Feb. 22, 2005) (“Public Notice”).

² *In the Matter of the Application of Centennial Cellular Tri-State Operating Partnership; Centennial Randolph Cellular LLC; Elkhart Metronet, Inc.; Mega Comm LLC; Michiana Metronet, Inc., Application for Designation as an Eligible Telecommunications Carrier*,

the FCC for consent to redefine the service areas of certain rural telephone companies in Indiana, including CenturyTel (“Rural ILECs”). Grant of the Petition would allow Centennial to receive high-cost support based on the support the ILEC receives in an area served by a Rural ILEC, without serving the entire study area of the affected Rural ILEC. On February 22, 2005, the FCC sought comment on the Petition.³ As one of the affected Rural ILECs, CenturyTel opposes the Petition for the reasons set forth below.

II. THE FCC SHOULD DENY THE PETITION BASED ON CENTENNIAL’S FAILURE TO MEET ITS BURDEN OF PROOF, OR, AT THE VERY LEAST, COMMENCE A PROCEEDING TO CONSIDER THE PETITION

In its recent News Release announcing the adoption of an Order on CETC designation and service area redefinition standards, the FCC indicated that it will continue to follow its prior precedent for considering petitions for service area redefinition, as recommended by the Federal-State Joint Board on Universal Service.⁴ Specifically, the Joint Board stated:

These procedures establish a presumption that a rural carrier’s study area should be the service area for a new ETC, unless and until the state and the Commission working in concert decide that a different service area definition would *better* serve the public interest. In making this determination, the states and the Commission place the burden of proof *upon the ETC applicant*.⁵

Centennial has failed to meet this burden. The Petition and attached order issued by the Indiana Commission fail to establish that grant of the petition would “better serve the public interest” than would requiring Centennial to serve the entire ILEC study area. Specifically, Centennial

Cause No. 41052-ETC 46 (Dec. 15, 2004) (Exhibit A to the Petition) (“*Indiana Commission Order*”).

³ Public Notice.

⁴ *FCC Adopts Additional Requirements for Eligible Telecommunications Carrier Proceedings*, News Release, Feb. 28, 2005 (“*FCC News Release*”).

⁵ *Federal-State Joint Board on Universal Service*, FCC 04J-1, CC Docket No. 96-45 (rel. Feb. 27, 2004) [emphasis added].

fails to establish that granting the requested redefinition would not lead to cream-skimming, or would provide any public interest benefits.

A. Centennial Fails To Show It Could Not Extend Its Coverage To The Entire ILEC Study Area Through Additional Build-Out Requirements and Resale

The Indiana Commission appears to have based its decision purely on the fact that Centennial seeks redefinition within the entirety of its licensed facilities-based footprint and Centennial's claim that it is "restricted to providing service only in those areas where it is licensed by the FCC."⁶ However, the Indiana Commission overlooked the obvious contradiction between this argument and Centennial's commitment to serve entire wire centers even when only a portion of those wire centers are within its licensed wireless service area.⁷ Thus, Centennial's claim that it "will be precluded from receiving high-cost support for the wire centers within its Indiana Service Area"⁸ unless the FCC grants Centennial's Petition is misleading. Centennial has committed to serve outside its licensed footprint through resale and roaming agreements,⁹ and it should be required to do so throughout the entirety of the Rural ILECs' study areas. Grant of the Petition would permit Centennial to receive per-line support based on the Rural ILECs' costs for serving their entire study areas, though Centennial is selectively serving portions of these study areas. In order to receive identical support, Centennial should be required to serve the same service area as the Rural ILECs, through a combination of resale and its own facilities.

B. Centennial Fails To Show It Will Not Engage In Cream-skimming

Nowhere in its Petition does Centennial present hard data to demonstrate that it will not engage in cream-skimming. FCC precedent demands that the FCC be presented with

⁶ *Indiana Commission Order* at 24.

⁷ *Id.* at 19 and n.14.

⁸ Petition at 4.

⁹ *Indiana Commission Order* at 19 and n.14.

specific information on customer density and other factors on which the FCC has based its prior decisions.¹⁰ In past decisions, based on population density, the FCC has declined to grant service area redefinition requests (at least in part) based on concerns about cream-skimming, which can reasonably be inferred from customer density data.¹¹ In *Virginia Cellular*, for example, the FCC recognized that:

[F]or reasons beyond a competitive carrier's control, the lowest cost portion of a rural study area may be the only portion of the study area that a wireless carrier's license covers. Under these circumstances, granting a carrier ETC designation for only its licensed portion of the rural study area may have the same effect on the ILEC as rural creamskimming.¹²

The FCC went on to find that, in that case, the characteristics of the ILEC's study area made redefinition contrary to the public interest, regardless of Virginia Cellular's commitment to serve throughout its own licensed service area.¹³ Similarly, in granting Advantage Cellular's request for service area redefinition in Tennessee, the FCC required that Advantage Cellular remove certain wire centers from its request due to the potential for cream-skimming.¹⁴ The FCC lacks sufficient information to make such a judgment in this case.

Certain statements by Centennial and the Indiana Commission add further doubts as to whether the issue of cream-skimming was adequately addressed in the state proceeding. For example, Centennial claims that "cost differences" did not drive Centennial's decision

¹⁰ *Virginia Cellular, LLC Petition for Designation as an Eligible Telecommunications Carrier in the Commonwealth of Virginia*, FCC 03-338, CC Docket No. 96-45 (rel. Jan. 22, 2004) ("*Virginia Cellular*"); *Advantage Cellular Systems, Inc. Petition for Designation as an Eligible Telecommunications Carrier in the state of Tennessee*, DA 04-3351, CC Docket No. 96-45 (rel. Oct. 22, 2004) ("*Advantage Cellular*").

¹¹ *Id.*

¹² *Virginia Cellular* at ¶ 33.

¹³ *Id.* ¶ 35.

¹⁴ *Advantage Cellular* at ¶ 23.

because “costs are pretty similar throughout the state.”¹⁵ Even assuming for the sake of argument that the costs of providing wireless services are similar throughout Centennial’s service area, the costs and support for providing *wireline* service are *not* similar throughout the state. Centennial openly stated that it would use its universal service funding only to build out to the “largest population centers” in their designated area¹⁶ and where the most customers have requested service.¹⁷ Such statements indicate relatively low-cost areas will receive service improvements, and not “unserved” areas or those areas that are harder and more expensive to serve. Placing even greater doubt on the Indiana Commission’s analysis, despite Centennial’s stated business plan to build out to the “largest population centers,” the Indiana Commission stated that its build out plans would “improve service in those sparsely populated areas where Centennial has requested designation as an ETC in Indiana.”¹⁸ These contrasting statements by the Centennial and the Indiana Commission place at issue whether service area redefinition will promote universal service or merely promote Centennial’s business plan.

C. The FCC Lacks Sufficient Information to Grant The Petition

For the reasons stated above, the FCC should reject Centennial’s Petition as legally deficient. In the alternative, the FCC should commence a proceeding rather than permit automatic grant. Section 54.207(c)(3)(ii) of the FCC’s rules provides that, if the FCC declines to act on a petition for redefinition of a rural service area within 90 days of the public notice, the petition will automatically be deemed approved by the FCC.¹⁹ As CenturyTel has argued in

¹⁵ *Indiana Commission Order* at 16.

¹⁶ *Id.* at 12.

¹⁷ *Id.* at 16.

¹⁸ *Id.* at 30.

¹⁹ 47 C.F.R. § 54.207(c)(3)(ii).

prior pleadings in Docket 96-45, Section 214(e)(5) of the Communications Act of 1934, as amended (the “Act”), requires the FCC to take into consideration the Federal-State Joint Board’s recommendations before changing the study area for a rural ETC. A written decision is physical evidence of whether the FCC actually considered the Joint Board’s recommendations. Furthermore, the FCC has an obligation to consider all the arguments made -- both in support of *and* against the Petition. As demonstrated herein, there is considerable debate regarding the merits of the Petition, which the FCC must demonstrate that it has fully considered.

The FCC, therefore, should deny the Petition as failing to demonstrate that the redefinition will “better serve the public interest” than would requiring the CETC to serve the entire ILEC study areas using a combination of resale and its own facilities in order to receive support. Alternatively, the FCC should initiate a proceeding to thoroughly consider the public interest benefits and burdens of redefining the Rural ILECs’ study areas as proposed in the Petition.

III. CENTENNIAL HAS FAILED TO DEMONSTRATE THAT IT WILL COMPLY WITH MINIMAL STANDARDS APPLICABLE TO ETCs

Centennial’s application provides scant evidence that it will comply with minimal standards applicable to ETCs, or that the public interest would be served through providing universal service funding to Centennial. Rather, the only party the FCC can be sure will benefit from grant of the Petition is Centennial, itself. Centennial’s assurances focus almost exclusively on how Centennial will invest in its network, which will probably help Centennial increase its customer base or roaming revenues, but does not address in any meaningful way how its services will advance universal service to rural consumers. Significantly, Centennial does not offer to match any of the meaningful public interest standards applicable to the Rural ILECs in their markets.

For instance, Centennial's admission that its base plan would provide only 150 minutes per month for \$19.99 is reprehensible and inconsistent with the FCC's directive that CETC applicants "offer local usage plans comparable to those offered by the [ILEC]." ²⁰ No plan that allows for only five minutes a day could reasonably be considered an "affordable service" ²¹ nor comparable to an ILEC's unlimited local service offering. For example, CenturyTel's base plan in Indiana costs only \$17.65, and includes unlimited minutes for three exchanges (Battleground, Brookston and Kempton). Of particular note is Centennial's lack of disclosure of the per-minute charge that would apply if a customer exceeds his or her five-minute-per-day ration, as the customer surely would. Therefore, the FCC should not allow disbursement of funds for a service that virtually is unusable without incurring costly overage charges, that does not provide full disclosure to the customer or that is not comparable to an ILEC's unlimited usage plan.

Furthermore, Centennial's claim that it "offers a variety of options including free incoming calls, free nights and weekends, free long distance and free Centennial mobile to Centennial mobile calls" is disingenuous. Putting aside whether these offerings are supported services, ²² these services are not "free." These options each come at a cost, which may or may not be affordable.

Centennial has not demonstrated that it would provide customers with any competitive choices that they do not otherwise have. Centennial's empty platitudes related to increased competition are not enough to meet its burden of proof for CETC designation or

²⁰ *FCC News Release* at 1.

²¹ 47 U.S.C. § 254(b)(1) (requiring that carriers provide quality services at affordable rates).

²² *See* 47 C.F.R. § 54.101.

service area redefinition.²³ For example, Centennial states that it “already provides service within most of the areas for which it seeks ETC designation.”²⁴ As such, pursuant to the Commission’s “identical support rule,” Centennial immediately will receive funding for areas in which it already successfully competes.²⁵

Moreover, there is no evidence that Centennial is providing service to areas that lack competitive alternatives. As noted above, Centennial states that it intends to build new cell sites to serve the “largest population centers” in “unserved rural areas.”²⁶ Unserved by whom? Obviously, CenturyTel already serves the areas covered by its exchanges. Centennial testified that six of its seven planned cell sites will not expand coverage, but merely improve its service to areas that it already serves.²⁷ Centennial never addresses whether it is one of numerous service providers already serving its licensed service area, or whether it will actually expand service offerings to truly “unserved” communities.

As a final matter, Centennial should be required to provide a five-year build-out plan to demonstrate that support will be used for its intended purpose.²⁸ Centennial estimates that its major expansion project will cost it approximately \$450,000 in total investment costs that Centennial claims it would not make without funding.²⁹ This relatively modest sum does not account for the \$1.2 million dollars *annually* that Centennial estimates that it would receive in high-cost support. The only concrete plans presented by Centennial will be fully funded within 6

²³ *Virginia Cellular Order* at ¶¶ 27-28.

²⁴ *Indiana Commission Order* at 15.

²⁵ 47 C.F.R. § 54.307.

²⁶ *Indiana Commission Order* at 12.

²⁷ *Id.* at 13.

²⁸ *FCC News Release* at 1.

²⁹ *Indiana Commission Order* at n.17.

months of Centennial's receipt of funds. Assuming \$1.2 million in annual funding, Centennial would receive approximately \$6 million in funds over five years, which well exceeds Centennial's stated build-out \$450,000 build-out plan. The FCC should not grant the Petition without additional assurances that support will be used to advance universal service.

IV. CONCLUSION

CenturyTel opposes the Petition to redefine CenturyTel's study area at the wire center level. Centennial has failed to provide sufficient evidence on the record for the FCC to make a reasoned public interest analysis. To the contrary, the record in this proceeding demonstrates that grant of Centennial's Petition would fail to advance the public interest. Therefore, the FCC should deny Centennial's Petition, or, at the very least, commence a proceeding and decide the Petition in a written order.

Respectfully submitted,
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CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing Opposition was sent by 1st Class US mail, this 8th day of March 2005, to:

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